

THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 19610 of 2007

Date:14-09-2007

Between:

Sana Venkataiah and two others

PETITIONERS

AND

The Govt. of A.P. rep. By its District Collector, Prakasham District at Ongole and two others.

RESPONDENTS

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ORDER:

Petitioners seek a writ of mandamus to declare the action of the 3rd respondent in issuing the impugned notice, dated 07.09.2007 and further action of the 3rd respondent in trying to lay the road through the petitioner's land situated in Sy.No.59 of Chodavram village without following the due process of law, , as illegal and arbitrary.

The case of the petitioners is that the 1st petitioner owns land in an extent of Ac.1-75 cents, 2nd petitioner owns Ac.1-50 cents and the 3rd petitioner owns Ac.0-66 cents in Sy.No.59 of Chodavaram village, Veligandla mandal, Prakasham District. It is stated that the third respondent-Mandal Revenue Officer issued a notice, dated 07.09.2007 stating that the petitioners have encroached the poramboke land in Sy.No.59 of Chodavaram village and by reason of the said encroachment, the neighbouring ryots are put to inconvenience for going to their fields and accordingly they have made a representation. Pursuant to the said representation, the said notice has been given directing the petitioners to appear before the 3rd respondent on 11.09.2007 along with the relevant documents in support of their claim, otherwise, the revenue authorities will have to remove the encroachments clearing the way for the use of ryots. It is stated that the petitioners got issued a lawyer's notice to the Tahsildar on 11.09.2007 stating that they have purchased the said land by registered sale deed, dated 26.07.1965 and they have been in possession and enjoyment of the said land by paying cist to the

government and the said land do not belong to the government and they never encroached the said land.

I am not inclined to express any opinion with regard to the contents of the notice as well as the contentions of the petitioners as to whether the said land is a government poramboke land or not and whether the petitioners have encroached the said land or not. Even assuming that the petitioners are the encroachers of the said land, the respondents can take action in accordance with law against them under the provisions of A.P. Land Encroachment Act, 1905. Therefore, I am of the opinion that the notice issued by the third respondent is only a show cause notice as the petitioners are requested to appear before the third respondent along with the relevant documents.

Having regard to the facts of the case, as the petitioners had already made their representation through their lawyer, the third respondent is directed to conduct enquiry in accordance with law under the provisions of the A.P. Land Encroachment Act and pass appropriate orders in accordance with law after giving reasonable opportunity to the petitioners. Till the orders are passed under A.P. Land Encroachment Act, the petitioners shall not be dispossessed.

With the aforesaid observations, the writ petition is disposed of.
No costs.

V.ESWARAIAH, J.

Date:14.09.2007

Note:

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Issue operative portion of the order by wire
at party's cost.

B/O

ccm

